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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,279	02/17/2004	Kazuhisa Takano	89277.0023	7069

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EXAMINER

YEAGLEY, DANIEL S

ART UNIT PAPER NUMBER

3611

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,279

Applicant(s)

TAKANO

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-15 and 18-20 is/are rejected.
- 7) ☐ Claim(s) 3,4,16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/17/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4 and 17, line 2, the word "it" is considered indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 7 – 11, 14, 15, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsunoda et al '622.

Tsunoda shows a motorcycle which encompasses a method for manufacturing a motorcycle, wherein a seat supporting member extends in a rearward direction with a seat placed on an upper seat supporting member with connecting plate-like lower seat supporting members separating the lower seat supporting member from the upper seat supporting member in a downward direction covering a region above at least an exhaust pipe (figure 1), wherein the motorcycle comprises an engine 1 mounted on a body frame 10 with an exhaust pipe 3 connected to the engine and disposed below the seat, wherein the seat supporting member is connected to

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the body frame and extends in a rearward direction from the body and comprises an upper seat supporting member with a seat in place and a lower seat supporting member connected to and separated in a downward direction from the upper seat supporting member in which a frame portion 14 opens in a downward direction and is configured as a plate like member in a shape to cover a region above at least an exhaust pipe 3 and means for covering a region surrounding a muffler 4 in addition to the exhaust pipe, wherein the muffler is positioned above a rear wheel, such that the seat supporting member is made up of the upper seat supporting member configured as a plate-like member and the lower seat supporting member (right and left side covers) which form a hollow shape.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Tsunoda et al '622 in view of Hattori '366.

Tsunoda discloses a motorcycle comprising a seat supporting member made up of an upper and the lower seat supporting member which cover an exhaust pipe and a muffler, but failed to disclose the covering comprised of the upper and the lower seat supporting member being made of a heat insulating material of carbon resin.

Hattori discloses a motorcycle having a covering for covering an exhaust pipe 30 and muffler 32, wherein the cover over the exhaust pipe 30 is formed by a coating of synthetic resin plate with heat-insulating material as broadly claimed (column 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the exhaust pipe coverings of Tsunoda seat supporting members with some type of heat insulating material, such as a carbon resin or some other heat insulating material such as suggested by Hattori in order to prevent damage to the covers from excessive heat generated by an exhaust system and to further increase safety and comfort to the rider by insulating the rider from exhaust generated heat.

7. Claims 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunoda et al '622 in view of Ikenoya et al '306.

Tsunoda discloses a motorcycle comprising a seat supporting member which covers an exhaust pipe and muffler system, but failed to disclose an exhaust system containing a catalyst disposed inside a portion of the exhaust pipe which is covered.

Ikenoya shows a motorcycle with an exhaust system that is covered by seat supporting members, which further discloses the art of disposing a catalyst in a portion of the exhaust system if needed, (column 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the exhaust system of Tsunoda with a catalyst device disposed in the exhaust system if needed, as suggested by Ikenoya in order to provide a purification means to the exhaust system as is well known in the art and sometimes require by law.

Allowable Subject Matter

8. Claims 3, 4, 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: none of the references found alone or in combination shows a motorcycle having a rear arm supported on a body through a pair of left and right rear cushions, wherein a front portion of the lower seat supporting member, passes through a space between the pair of left and right rear cushions and having the exhaust pipe attached to the body and none of the references found alone or in combination disclosed a lower seat supporting member that extends to a position where the lower seat supporting member is interposed between rear cushions and the exhaust pipe to cover the exhaust pipe.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miahara et al '484, Aihara '778, Hoshi et al '614, Yamahuchi '933, Iimuro '347, Kurayoshi et al '789, Tanabe et al '359, Sato et al '497, Yoshioka et al '146 and Hansen '403 show motorcycles with the exhaust system covered by a seat supporting member and Nakano et al discloses a straddle type motor vehicle that shows an exhaust system covered by a seat supporting member.


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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.


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